

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

EUGENE WEBB and LAURA WEBB,

Plaintiffs,

v.

BAYVIEW LOAN SERVICING, LLC,
a foreign company, and ASSET
FORECLOSURE SERVICES, INC.,
a foreign corporation,

Defendants.

Case No. 6:12-cv-1795-AA

**TEMPORARY
RESTRAINING ORDER**

AIKEN, Chief Judge:

Before the court is plaintiffs' Motion for Temporary Restraining Order (doc. 12). Plaintiffs contend that a non-judicial foreclosure sale of their residence, located at 2554 Cole Road S, Salem, Oregon, is scheduled to occur on December 26, 2012. Pursuant to Fed. R. Civ. P. 65(b) and upon review of the Complaint and supporting memorandum and affidavit:

THE COURT FINDS that plaintiffs have raised serious questions with respect to the merits of their claims, in that defendants

allegedly have not complied with the legal requirements for valid non-judicial foreclosure under Oregon law; and

THE COURT FURTHER FINDS that plaintiffs likely will suffer irreparable harm if the non-judicial foreclosure of their residential property and home is allowed to proceed and that the balance of hardships tips in their favor, given that defendants may have other remedies available to them, such as judicial foreclosure, and will have the opportunity to establish their right to foreclose in this action; and

THE COURT FURTHER FINDS that the underlying legal issues cannot be resolved before the non-judicial foreclosure sale will occur or before defendants can be heard, and that the issuance of the temporary restraining order is in the public interest; and


THE COURT FURTHER FINDS that no security shall be required to support issuance of this order pursuant to Fed. R. Civ. P. 65(c), though the court may reconsider its position if a preliminary injunction is issued.

Accordingly, IT IS HEREBY ORDERED that plaintiffs' Motion for Temporary Restraining Order (doc. 12) is GRANTED. Pursuant to Fed. R. Civ. P. 65(d), defendants, their officers, agents, employees, attorneys, and other persons in active concert or participation with defendants, are RESTRAINED and ENJOINED from conducting a non-judicial foreclosure sale of the property commonly known as 2554 Cole Road S, Salem, Oregon.

IT IS FURTHER ORDERED that the parties shall appear before this court by telephone on Monday, January 7, 2013 at 9:30 a.m., and defendants shall show cause, if any, why this restraining order should not be continued during the pendency of this action as a preliminary injunction. The court shall initiate the call. If the parties reach agreement regarding postponement of the non-judicial foreclosure, the court will cancel the telephone hearing.

IT IS SO ORDERED.

Dated this 21 day of December, 2012.



Ann Aiken
United States District Judge